



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 31, 2013

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer

Thomas Hintermister
Assistant Staff Director

FROM: Lisa J. Stevenson
Deputy General Counsel – Law *LJS*

Lorenzo Holloway *LH*
Assistant General Counsel
Compliance Advice

Joshna Blume *JB*
Attorney

SUBJECT: Draft Final Audit Report – Democratic Party of South Carolina (LRA 886)

The Office of General Counsel has reviewed the Draft Final Audit Report (“DFAR”) on the Democratic Party of South Carolina (the “Committee”). We concur with Finding 1 in the DFAR (Recordkeeping for Employees).

With respect to Finding 2 (Coordinated Party Expenditures), we recommend that the Audit Division raise one issue related to this finding in the cover memorandum that forwards this report to the Commission.

The Audit Division appears to agree with the Committee that expenses for door hangers, originally thought to be excessive coordinated party expenditures, are properly regarded as exempt slate cards according to the standards set forth in 2 U.S.C. § 431(8)(B)(v), (9)(B)(iv); 11 C.F.R. §§ 100.80, 100.140. In our comments on the Interim Audit Report, we concluded that the sample door hanger provided by the Committee met the threshold requirements for qualification as a slate card and recommended that the Audit Division raise two issues connected with application of the exemption in its cover memorandum accompanying the Interim Audit Report. The first such issue was that the door hanger appeared to contain messages that potentially went beyond simple slate card information. Upon further reflection, we no longer consider it necessary for the Audit Division to raise this first issue in the cover memorandum

accompanying the report. In our initial comments, we concluded that the additional messages appeared to do no more than encourage straight party voting and therefore did not disqualify the door hanger from classification as a slate card, but nevertheless recommended highlighting the issue to the Commissioners. Based on further legal research, we have concluded that the urging of the election of the depicted candidates does appear to be within the parameters of the slate card exemption. *See* Advisory Opinion 1978-89 (Withers) (both a pamphlet urging election of candidates for statewide and local office and a separate letter were disqualified from the slate card exemption because: (1) they contained biographical information on the candidates other than that allowed under the exemption; (2) they outlined the candidates' positions on specific issues, and (3) they included statements of party philosophy). In Withers, the fact that the pamphlet urged the election of depicted party candidates, as is the case here, was not one of the stated reasons for disqualifying the pamphlet from the slate card exemption. As such, we no longer consider it necessary for the Audit Division to raise this issue in the cover memorandum accompanying the audit report.

The second such issue was the presence of photographs of apparently unequal size on the slate card. As cited in our comments on the IAR, a statement in the Conference Report accompanying the legislative provision governing slate cards suggested that the names of all candidates should appear on slate cards with equal prominence. Because Commission regulations and guidance are silent on this issue, however, we recommended that Audit raise this issue in its cover memorandum. We would recommend that the Audit Division continue to raise this issue in its cover memorandum accompanying the DFAR for the Commission's consideration. If you have any questions, please contact Joshua Blume, the attorney assigned to this audit.¹

¹ The Office of General Counsel recommends that the Commission consider this document in open session because the DFAR does not include matters exempt from public disclosure. 11 C.F.R. § 2.4(a).